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SUBJECT: UNGA 6TH COMMITTEE DEBATES NEW TOPIC -- THE RULE  
OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS -- AND  
ADOPTS RELATED RESOLUTION

REF: A. STATE 184804

[1](#)B. EDMONDSON/WILCOX EMAIL--11/16/06

[1](#)C. STATE 4674

[1](#)1. (U) Summary. On November 16, the Sixth (Legal) Committee adopted without a vote the draft resolution on the "Rule of law at the national and international levels" (A/C.6/61/L.18) (as verbally amended). The U.S. joined consensus (REFS A, B). The resolution places the rule of law item on the provisional agenda for the 62nd UNGA, recommends that the Sixth Committee annually choose one or two topics for discussion of the topic in subsequent sessions, and requests the Secretary-General to submit several reports relating to the rule of law. The UNGA Plenary adopted this resolution on the item, December 4. Earlier, on October 16 and 17 and on November 6, the Committee debated the topic. The debate was general and wide-ranging, but delegations stressed the importance of rule of law in peace, prosperity and relations among and within states. End summary.

#### Background

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[1](#)2. (U) Liechtenstein and Mexico sought inclusion of the topic in the agenda for the 61st UNGA and its allocation to the Sixth Committee (A/61/L42). The two countries characterized their proposal as a follow-up on the 2005 World Summit Outcome document (A/RES/60/1), which noted the need for "universal adherence to and implementation of the rule of law at both the national and international levels." Furthermore, in an explanatory memorandum attached to their request, they stressed the importance of the UN in the international legal system and, as a prerequisite for improving the UN's effectiveness, of the need to establish a systematic inventory of the rule of law programs of the various UN bodies. Sixth Committee Chairman Gomez Robledo (Mexico) drafted the resolution and chaired several informal negotiating sessions on it.

#### General Debate

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[1](#)3. (U) The following delegations made statements: Algeria, Belarus, China, Cuba, Egypt, Ethiopia, Finland (on behalf of the EU), Guyana (on behalf of the Rio Group), India, Indonesia, Iran, Israel, Japan, Liechtenstein, Malaysia, Mexico, New Zealand (on behalf of Australia and Canada ) CANZ), Pakistan, the Republic of Korea, the Russian Federation, Sierra Leone, South Africa, Sudan, Switzerland, Syria, Tanzania, Thailand, Trinidad and Tobago, the United States (REF C), Zambia and Zimbabwe.

[1](#)4. (U) Speakers expressed support for the rule of law and

the introduction of the new agenda item, but because this was the first year the Sixth Committee considered this item, the debate proved general and relatively unfocused. Many states expressed support for the existing international legal bodies such as the International Court of Justice, the ad hoc tribunals, and the International Criminal Court.

15. (U) Several states called for the Committee to focus its debate on specific topics in the future. Next year, New Zealand, also on behalf of Canada and Australia (CANZ) said the Sixth Committee should focus on residual issues relating to the international tribunals established by the Security Council. Liechtenstein proposed topics relating to the future of international criminal law, technical assistance in post-conflict situation and the role of non-state actors in international law. Liechtenstein also said the responsibilities of transnational corporations and the activities of private military personnel deserve more attention. South Africa suggested that the Sixth Committee consider a topic linked to the treaties covered by the UN's annual treaty-signing event, arguing that by doing so the Sixth Committee could help increase ratification of these treaties.

16. (U) Others did not propose topics but said delegations should forward specific ideas in the period between the 61st and 62nd UNGA. The EU expressed support for requesting a subject-related report from the Secretary-General to serve as the basis for the annual debate, and cautioned against duplicating discussions occurring elsewhere at the UN. Sudan, Egypt, Iran and Pakistan called for the Sixth Committee to establish an ad hoc committee to produce suggestions for the 62nd UNGA.

17. (U) Several delegations proposed the creation of a rule of law assistance unit within the Secretariat. Finland (EU)

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praised the UN's current work relating to the rule of law, including the establishment of the Peacebuilding Commission and the rule of law mandates of new peacekeeping and peacebuilding missions, but said a rule of law unit would improve coordination across the UN. Belarus, India and Liechtenstein also supported the proposed unit.

18. (U) Many delegations praised the new agenda item as a way for the UN and the General Assembly to take a wider role in the rule of law, with some suggesting that a strong General Assembly role would counterbalance the Security Council. In this vein, several states of the Non-Aligned Movement (NAM) expressed their concern over what they characterized as the Security Council performing legislative functions. South Africa, as well as Cuba and Syria, said the Sixth Committee should consider the Security Council's limits in exercising its authority under Chapter VII of the UN Charter. Pakistan questioned the legality of the Council's sanctions regimes, particularly with respect to the listing and de-listing procedures of the Council's sanctions committees. Pakistan and other delegations, including Thailand, also advocated "uniform" implementation of Council decisions.

19. (U) Several states stressed the need for additional international assistance to promote the rule of law. For example, several developing countries noted that many of the UN's rule of law efforts focus on post-conflict societies but that rule of law capacity-building assistance is, as Guyana (Rio Group) said, "preventative." Trinidad and Tobago expressed concern that without rule of law in the international arena, smaller states would "have no chance." Japan suggested that the Sixth Committee could identify the concrete, practical difficulties that many Member States face in applying international law within the framework of their domestic law and request related legal advice from the UN Office of Legal Affairs.

110. (U) Amid the generally positive debate, Cuba attacked

"superpowers" acting unilaterally in defiance of "international legal norms." Zimbabwe, in an otherwise general speech focused on the importance of rule of law at all levels, "deplored the continued detention without trial of unindicted prisoners at Guantanamo, as unlawful and undermining the rule of law that the agenda item sought to promote."

#### Action on the Resolution

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¶11. (U) The Sixth Committee adopted a draft resolution on the "Rule of law at the national and international levels" (A/C.6/61/L.18) without a vote on November 16. In introducing the resolution, the Chairman amended it verbally to insert, in para 2 (referring to the interim report the resolution requests the Secretary-General to prepare, containing an inventory of the UN's current activities relating to the rule of law), the words "for submission at its sixty-third session" after the words "national and international levels." He explained that the amendment was intended to clarify that the inventory report should be prepared within existing resources. (Note: During negotiations of the resolution, the United States and Japan both pressed to ensure that the preparation of the inventory report would not have extra budgetary consequences.) After the resolution was introduced, the Secretariat read a statement from the UN's budget office, advising that the draft resolution could be implemented within existing resources during the 2006-2007 biennium.

¶12. (U) The resolution requests the Secretary-General to submit several reports relating to the rule of law, decides to include the rule of law item on the provisional agenda for the 62nd UNGA, and recommends that at each subsequent UNGA, the Sixth Committee should choose one or two sub-topics to facilitate the Committee's subsequent discussion of the item. The resolution tasks the Secretary-General to submit two reports for the 62nd UNGA, one presenting Member States, views on the rule of law, and another providing interim information on an inventory of UN activities relating to the rule of law. It also urges the Secretary-General to submit the report on the establishment of a rule of law assistance unit within the Secretariat mentioned in para 134(e) of the 2005 Summit Outcome document. For the 63rd UNGA, the resolution requests the Secretary-General to submit the final inventory report on UN activities relating to the rule of law, as well as a report identifying ways to strengthen and coordinate the activities listed in that inventory report.

¶13. (U) Japan gave a brief explanation of position (EOP)

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before the resolution was adopted, noting that it would join consensus on the understanding that the draft resolution would not incur new financial obligations. In a subsequent explanation of vote (EOV), Japan expressed appreciation for the Secretariat's statement that the resolution would not create financial consequences in the 2006-2007 biennium and said it would revert to discussions of budgetary issues in the appropriate forum. Syria gave an EOV expressing concern that the resolution would enable the Secretariat to limit the topics for the Committee's discussion, reserving its right to raise issues on the item, and objecting to the discussion of financial matters in the Sixth Committee.

¶14. (U) The UNGA Plenary considered and adopted the resolution, without a vote on December 4.  
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